

SCOTT N. SCHOOLS (SC 9990)
United States Attorney

MARK L. KROTOSKI (CSBN 138549)
Chief, Criminal Division

SUSAN KNIGHT (CSBN 209013)
Assistant United States Attorney

150 Almaden Blvd., Suite 900
San Jose, California 95113
Telephone: (408) 535-5056
FAX: (408) 535-5066
Susan.Knight@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARIEL ARELLANO DIAZ,
a/k/a ANTONIO JUAN GOMEZ,

Defendant.

No. 07-70225 PVT

STIPULATION AND [PROPOSED]
ORDER CONTINUING PRELIMINARY
HEARING OR ARRAIGNMENT DATE
AND EXCLUDING TIME

SAN JOSE VENUE

The undersigned parties respectfully request that the preliminary hearing or arraignment in the above-referenced case be continued from May 18, 2007 at 1:30 p.m. to June 28, 2007 at 1:30 p.m. before the Honorable Judge Trumbull. The reason for the continuance is that Miguel Hernandez, who represents the defendant, needs additional time to investigate the case and consider a pre-indictment resolution that the government has offered him. In addition, the parties request an exclusion of time under Rule 5 of the Federal Rules of Criminal Procedure and the Speedy Trial Act from May 18, 2007 to June 28, 2007. The parties agree and stipulate that an exclusion of time is appropriate based on the defendant's need for effective preparation of

counsel.

SO STIPULATED:

SCOTT N. SCHOOLS
United States Attorney

DATED: _____

_____/s/
SUSAN KNIGHT
Assistant United States Attorney

DATED: _____

_____/s/
MIGUEL A. HERNANDEZ
Counsel for the defendant

Accordingly, the Court HEREBY ORDERS that the preliminary hearing or arraignment is continued to June 28, 2007 at 9:30 a.m. before the Honorable Judge Trumbull. Good cause is shown and the continuance is proper under Rule 5 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.

For good cause shown, the Court FURTHER ORDERS that time be excluded under the Speedy Trial Act from May 18, 2007 until June 28, 2007. The Court finds, based on the aforementioned reasons, that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant the requested continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

SO ORDERED.

DATED: _____

HOWARD R. LLOYD
United States Magistrate Judge